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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 August 1997, at 3 p.m.

Chairman: Mr. BENGOA
later: Mrs. WARZAZI
later: Mr. Maxim

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(b) REVIEW OF DEVELOPMENTS CONCERNING RECOMMENDATIONS AND DECISIONS RELATING, INTER ALIA, TO:

(i) PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS;

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(i) ADVERSE CONSEQUENCES OF THE TRANSFER OF ARMS AND ILLICIT TRAFFICKING IN ARMS ON THE ENJOYMENT OF HUMAN RIGHTS;

(ii) ARBITRARY DEPRIVATION OF NATIONALITY

The meeting was called to order at 3.15 p.m.

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(agenda item 11) (continued) (E/CN.4/Sub.2/1997/24, 25, 27 and Add.1, 28, 30, 34, 38)

1. Mr. PARK said he appreciated the international community's efforts in the field of the promotion, protection and restoration of human rights at the national, regional and international levels as reflected, in particular, by General Assembly resolution 32/127, the Vienna Declaration and Programme of Action, adopted at the 1993 World Conference on Human Rights, and Commission on Human Rights resolutions 1995/46 and 1997/34.

2. With regard to the Asian and Pacific region, the Commission in its resolution 1997/45 had welcomed the holding of a series of regional workshops for the promotion and protection of human rights and the establishment of the

Asia-Pacific Forum of National Human Rights institutions and it had encouraged all States and relevant organizations to develop programmes for human rights education in that region.

3. There seemed to be two schools of thought with regard to the promotion and protection of human rights. The first stressed the universal nature of the responsibility deriving from the relevant international instruments, while the second seemed to put more emphasis on national and regional diversity and particularities that must to be taken into account in establishing an appropriate regional mechanism. Personally, he saw no conflict between those two approaches, since all mechanisms for the protection of human rights took into account both the relevant instruments and local realities. Thus it should be possible to identify objectives and obstacles in the establishment of human rights arrangements with greater precision at the regional level. Since the promotion and protection of human rights were also closely linked to the development of a "human rights culture", it was important to focus on educational programmes within the framework of regional cooperation mechanisms.

4. In conclusion, he thanked the Centre for Human Rights, the other United Nations mechanisms for human rights and the States of Asia and the Pacific for their valuable contribution to the development of arrangements for the promotion and protection of human rights in the region.

5. Mr. DIAZ URIBE thanked Mrs. Koufa for her excellent working paper on the question of terrorism and human rights (E/CN.4/Sub.2/1997/28). The adverse consequences of the trafficking in arms on the enjoyment of human rights was a major subject of concern for the United Nations system as a whole and the Sub-Commission in particular. As could be seen in the world today, that heinous trade perpetuated armed conflicts - generally of an internal nature - with resulting violations of the human rights of the populations concerned. In that regard, he drew attention to violations of human rights and international humanitarian law by paramilitary or terrorist groups, which did not hesitate to resort to drug trafficking in order to finance their wars. That was the situation in his own country, Colombia, where, within the framework of virtually endemic internal armed conflict, the guerrilla fighters of the Fuerzas Armadas Revolucionarias de Colombia (FARC), the Ejército de Liberación Nacional (ELN) and the dissident branch of the Ejército Popular de Liberación (EPL) abducted hundreds of people each year and attempted to extort money from thousands of others in order to finance their war and enrich drug traffickers.

6. The Sub-Commission had been right in including the adverse consequences of illicit trafficking in arms in its agenda since that problem affected the internal situation of some States, human rights and international humanitarian law. Furthermore, the United Nations General Assembly, in its resolution 46/36 H of 6 December 1991, had emphasized the devastating consequences of such trafficking. Every effort should, therefore, be made to combat the problem since, although the Charter of the United Nations recognized the right of all States to defend themselves and to acquire arms in order to ensure their safety, those arms should not be used in such a way as to give rise to human rights violations.

7. Lastly, he welcomed the efforts of the working group mandated by the Organization of American States to prepare a draft inter-American convention against the manufacture and illicit trafficking of firearms, munitions, explosives and other related materials. In its preliminary report, the working group had stressed the adverse consequences of illicit trafficking in arms for States and their citizens.

8. Mrs. WARZAZI noted with concern that the hopes raised by the end of the cold war and ideological confrontation had been illusory and that, as soon as the Berlin Wall had fallen, internal armed conflicts had broken out with violence. There were also those who vented their anger in reactionary campaigns against those whose race, colour, origin or religion were different from their own. In 1993, Mr. Huntington, a Harvard University professor who often served as adviser to the Government of his country, the United States, had gone so far as to argue that conflicts between civilizations would replace other forms of conflict and that the West should guard against any alliance or cooperation between Confucian and Islamic States. In view of the current hostility focused on Islam, which had contributed so much to all the world's countries, it was impossible not to be apprehensive about changes in the identities of peoples as more powerful cultures imposed their values and not to understand those peoples who, amidst a wave of assimilatory globalization, clung to their identities and their religious and cultural values. But how was it possible to combat the exploitation of that situation by religious fanatics when the authorities, particularly in Western countries, did not realize that only a diverse but unified world could ensure peace and happiness for all?

9. Dialogue between religions, through the intermediary of religious scholars, could contribute effectively to religious tolerance. Had those scholars advocated tolerance, some of the anti-religious violence which had occurred in Europe, Myanmar and Israel might have been avoided. Similarly, to claim that one religion encouraged hatred of members of another was a flagrant example of religious intolerance. Article 18 of the Universal Declaration of Human Rights made it clear that everyone must show respect for religion, which bore a message of love, pardon and peace, and a severe, pitiless or vengeful God existed only in the minds of the ignorant, fanatics and those who used lies for political or other reasons. It was therefore essential to combat vigorously any attack on the integrity of a religion or lack of respect for its adherents.

10. In that regard, she paid tribute to the exemplary work for peace and religious tolerance done by His Majesty the King of Morocco, to whom the International Council for Religious Dialogue had awarded a gold medal at Marrakesh in February 1997. Morocco's religious tolerance had also been acclaimed by the Pontifical Council for Inter-religious Dialogue at the meeting for the Islamic-Catholic Liaison Committee held at Rabat in June 1997. Lastly, the World Sacred Music Festival, which celebrated brotherhood and friendship, had been held at Fez for the third consecutive year.

11. At the international level, the struggle against religious intolerance should take the form of specific measures such as the implementation of the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief, the promotion of spiritual values,

prohibition of acts of religious intolerance, arousing awareness, and the revision of history books and school texts to promote tolerance, the establishment of government machinery to assist the victims of violations due to ignorance and, of course, the initiation of a constructive, ongoing dialogue between religions.

12. Lastly, she recalled that, according to the Koran, there was no compulsion in religion. She informed the Association for World Education and, in particular, its representative, Mr. Littman, that the Koran also stated that God had desired not a single religious community but rather differences which could enlighten everyone.

13. Mr. EL-HAJJE, introducing the working paper on the promotion and protection of human rights by the exercise of democracy and the establishment of a democratic society (E/CN.4/Sub.2/1997/30), prepared in accordance with Sub-Commission decision 1996/117, said that, in order to identify obstacles to the establishment of a democratic society and to find the means of overcoming them while protecting human rights, it was first necessary to define a democratic society and to determine its characteristic features. It followed from the fact that a democratic society was composed of individuals whose relations were governed by law, but also by ethical and moral principles, that the issue of who governed and how he was chosen was of secondary importance since governmental activity as a whole was controlled by laws and regulations designed to direct action towards the attainment of the public good. In that regard, therefore, the citizen's freedom of choice was indeed the foundation of any democratic society.

14. Democracy also presupposed that a society was shaped by laws and regulations formulated by its citizens or their representatives and imbued with a legal culture, remote from any metaphysical belief or supernatural phenomenon, so that citizens, who were supposedly free, were not induced to adopt a pattern of behaviour, divorced from contemporary reality, which would lead them to resist any change in their environment. A legal culture meant that individuals possessed attributes, that they enjoyed rights and prerogatives, and that in exchange they assumed duties and functions which gave rise to responsibilities and penalties. That legal culture, which advocated the principle of equality before the law, must be explained to all citizens from early childhood, and any discriminatory treatment must be justified. Similarly, since the isolation and marginalization of the individual were incompatible with a democratic society, society must develop dialogue and communication among its members and between them and the outside world through appropriate mechanisms.

15. In addition, the concentration of power, of whatever kind, thwarted individual freedom and fulfilment because it did not brook dialogue and communication. Democracy therefore called for the sharing of all powers among citizens in order to achieve equality in concrete terms through distributed justice which took account only of the general interest. Furthermore, the various branches of power must be independent of one another. It was therefore important to seek the best possible arrangement to enable the individual to exercise his rights and to participate in the exercise of power by directly or indirectly choosing representatives and by introducing legislation. For its part, the State's primary task was to preserve and

ensure the survival of the institutions responsible for the social dialogue. As to the question of whether the State was capable of assuming responsibility for economic production without jeopardizing democracy, it was accepted that the State must perform certain economic activities that were not profitable but necessary for the community. Lastly, since it was impossible to imagine a democracy without ethical or moral principles, it was essential to instil in education at all levels a sense of justice and common purpose and the idea of collective welfare.

16. It was impossible to promote a democratic society without taking into consideration its fundamental elements, namely, the citizen and the various groups, trade unions, clubs and political parties. While the free consent of citizens lay at the root of all the political and juridical relations linking them with public or private groups, limits had to be set on that freedom, which was accepted and recognized, failing which it might give rise to disorder and insecurity. It was therefore important to establish public order so as to protect the freedom of citizens within society and, in particular, their right to property.

17. It was commonly stated that there could be no rights without corresponding duties. It was, therefore, impossible for a right to become reality unless it was recognized and guaranteed and its violation penalized. In the opinion of some, the State had a fundamental duty to create and maintain the conditions necessary for individuals to exercise their rights, and it was that capacity which had made it possible to found States.

18. In conclusion, a democratic society which allowed citizens to participate in choosing those who governed and in devising the laws governing society prepared them directly and indirectly to exercise economic, social and cultural rights.

19. He then introduced the working paper on the potentially adverse consequences of scientific progress and its applications for the integrity, dignity and human rights of the individual (E/CN.4/Sub.2/1997/34), which he had prepared in conformity with Sub-Commission decision 1996/110. In order to ensure coexistence between the advances of science and technology and respect for and promotion and protection of human rights, it was necessary, on the one hand, to describe ethical principles in detail and, on the other, to set limits on freedom without hindering scientific progress. Scientific research must be left completely and totally free, yet society must have the right to limit it in consultation with, and with the agreement of, the scientific communities concerned. In the health field, a legal status should be determined for the human body, based on the prohibition of any trade related to the genetic heritage and the punishment of any act of a genetic character affecting any part or the whole of the human body. It was also important to guarantee the confidentiality of personal medical data. In order to fill the gap between developed and third world countries, a policy of promotion and support for researchers in developing countries should be considered and developed. Committees of ethics should also be established at the national and international levels.

20. Mr. WEISSBRODT, referring to Mrs. Koufa's working paper on terrorism and human rights (E/CN.4/Sub.2/1997/28), said that the discussion of that issue in the Sixth Committee of the United Nations General Assembly was progressing slowly, did not focus on human rights and was too narrow.

21. In his view, Mr. El-Hajjé's working paper (E/CN.4/Sub.2/1997/34) should have dealt with issues such as the consequences of arms, methods of production and their effect on workers, the impact of progress on the environment and cloning. Moreover, no mention had been made of article 15 of the International Covenant on Economic, Social and Cultural Rights, which dealt with scientific research, or of the report of the Secretary-General on human rights and bioethics (E/CN.4/1995/74). Lastly, it was unfortunate that only the negative consequences of scientific progress had been studied.

22. Mr. JOINET, commenting on the working paper submitted by Mrs. Koufa (E/CN.4/Sub.2/1997/28), said it was better not to define terrorism. Mrs. Koufa's calling into question of the traditional theory of a State's "monopoly" of the protection and violation of human rights was interesting, not only from a legal point of view - for experts - but also for States and non-governmental organizations (NGOs). It had been observed that the less the State took action, the more barbarous the violations, and NGOs which usually criticized States were now calling on them to provide greater protection against violations by non-State entities. It was therefore from that point of view that the central role of the State in providing protection should be considered. It was also important to examine in greater detail the question of the universal jurisdiction clause, since it was scarcely ever applied. States were faced with the dilemma of whether to try terrorists on their own territory or to extradite them. The problem of terrorism called for not only a legal but also a political solution. Lastly, he suggested that Mrs. Koufa should mention the third preambular paragraph of the Universal Declaration of Human Rights in the introduction to her final report.

23. Mr. LITTMAN (Association for World Education) noted that the recent incitement to terrorism and genocide by the Iranian authorities had gone largely unnoticed. On 4 July, Ayatollah Yazdi, head of the Iranian judiciary, had incited the public to "politicide" and genocide in a lecture at the University of Tehran. He had called for the "elimination" of Israel because of an insulting drawing displayed in Hebron by a young Israeli woman. He had declared that the death sentence was mandatory for any individual who insulted Islam and that the same sentence must be applied to an entire country, even if the insult was by an individual. The same day, Ayatollah Meshkini, speaker of the Assembly of Experts, had proposed a massive attack on Israeli and American diplomats throughout the world. Yet Iran had ratified the International Convention on the Elimination of All Forms of Racial Discrimination.

24. The Association for World Education appealed to the United Nations Secretary-General, the new High Commissioner for Human Rights, the Commission on Human Rights and the Sub-Commission to issue a strong condemnation of any public incitement to genocide, whether by the Iranian authorities or by other Governments or movements. He also urged States parties to the Convention on the Prevention and Punishment of the Crime of Genocide to invoke article VIII

of that instrument to ensure that those responsible for the most barbarous of all crimes against humanity, premeditated genocide, were brought before the future international criminal court.

25. Mrs. Warzazi took the Chair.

26. Ms. WATCHIRS (Joint United Nations Programme on HIV/AIDS (UNAIDS)) said that since the start of the epidemic, some 30 million people, including 6 million children, had been infected by the AIDS virus. Marginalized groups, whose human rights were not fully protected, were more vulnerable to the disease and, after contracting it, were discriminated against. UNAIDS, which called for an expanded response to HIV/AIDS, therefore urged the Sub-Commission and other United Nations human rights bodies to intensify their commitment to human rights violations associated with HIV and AIDS. She drew attention to the report of the Secretary-General on the Second International Consultation on HIV/AIDS and Human Rights (E/CN.4/1997/37). The guidelines it contained confirmed the fact that all human rights played an essential role in the attainment of individual and public health, well-being and dignity. Improved protection of human rights would result in improved public health. She asked the Sub-Commission to continue emphasizing the nature of the rights whose exercise was critical in reducing vulnerability to HIV infection and of States' obligations in that regard. The proposed guidelines also described specific measures for protecting human rights and health in the context of the AIDS epidemic.

27. Mr. GJONBALAJ (Transnational Radical Party) said that religious intolerance often increased tension between the States which practised it and the ethnic groups which suffered from it, sometimes to the point of open conflict. In East Timor, the Indonesian army's desecration of churches had led to riots. In Xinjiang (East Turkestan), as noted by the European Parliament, the Chinese authorities were following a policy of repression, particularly with regard to freedom of religion. During the past year, over 100 Koranic schools had been closed and 180 clerics, professors and students arrested. At Yining in February, 32 Uighur had been killed and hundreds of others injured in clashes with the Chinese police. In March 1996, the Chinese Communist Party had decided to control all religious activities and to ban all private religious education and religious propaganda. Communist Party members were prohibited from taking part in religious activities on pain of expulsion from the Party. In Xinjiang, Muslim schools and mosques had been declared illegal in order to combat "Muslim fundamentalism" and 57,000 people had been arrested.

28. In Tibet, the Chinese authorities were using religious intolerance as a means of suppressing all dissidents. They were closing monasteries and restricting religious practice in order to erase the cultural and spiritual identity of the Tibetan people and thus to stifle the promotion of national independence. In 1995, they had abducted the Panchen Lama; not until May 1996 had they admitted that the boy was in their custody. In all those cases, the denial of religious freedom was part of a broader policy of repression aimed at certain groups of people. The Transnational Radical Party therefore requested the Sub-Commission to consider not only individual cases of religious intolerance, but also the broader policies of repression carried out by certain Governments.

29. Mr. ROSSI (International Association for Religious Freedom (IARF)) said that the current wave of religious intolerance was the result of extremist religious movements rather than atheist political regimes. Even in the countries of Eastern Europe, which had experienced decades of religious persecution by Communist regimes, acts of religious intolerance were being directed against minorities. The Orthodox churches, which were in the majority in most of those countries and which had suffered terrible persecution in the past, were no longer subject to any restrictions. Unfortunately, experience had shown that those churches did not always succeed in carrying out their mission of peace and justice in harmony with the Christian message of brotherhood and love which they preached. In 1992, the heads of the Orthodox churches of Bulgaria, Greece, Romania, Russia and other countries, at a meeting held at Istanbul, had adopted a document in which they had declared preaching the Gospel by Catholics and Protestants to be unacceptable in countries with an Orthodox majority. It was very difficult to reconcile that position with the right to freedom of religion, which was not geographically circumscribed.

30. In 1990, after decades of combating religion, the Russian Government had adopted a freedom of religion act which stated that all religions were equal under the law, without privilege or discrimination. However, on 23 June 1997, under the influence of the Russian Orthodox Church and with the consent of the representatives of Buddhism, Islam and Judaism the Duma had adopted a new freedom of conscience and religion act which severely restricted the freedom of many religious minorities. Fortunately, President Yeltsin had refused to sign or promulgate the act since it was in clear conflict with numerous articles of the Constitution of the Russian Federation and relevant United Nations and Council of Europe instruments which the Russian Federation had undertaken to respect. Religious minorities in Bulgaria and Romania also suffered from discriminatory governmental measures. IARF therefore called on the Governments of those countries to protect religious minorities and to guarantee to all, without discrimination, full exercise of the right to freedom of thought, conscience and religion as set forth in international instruments.

31. Ms. LUONG THI NGA (Pax Romana) said that, contrary to the provisions of the two international human rights Covenants which Viet Nam had ratified in 1982, the preamble of the Vietnamese Constitution of 1992 stated that during the period of transition to socialism, the national development platform should be implemented from a Marxist/Leninist perspective and in light of the philosophy of Ho Chi Minh. Consequently, the freedom of thought, conscience, expression, belief, religion and association enshrined in the Constitution were merely turns of phrase, freedoms which existed on paper but not in practice and devoid of meaning. Furthermore, under article 4 of the Constitution, the Vietnamese Communist Party was the sole political force governing the country. Vietnamese who were not members of the Party or who had other political or religious beliefs were thus, de facto, denied access to Government posts in violation of article 25 of the International Covenant on Civil and Political Rights. The primary victims of that repressive policy were the nationalist party, Viêt Nam Quôc Dân Dang, and in the area of religion, the Buddhist church, Hoà Hao. She also noted that the Special

Rapporteur on Religious Intolerance of the Commission on Human Rights had been waiting three years for the Vietnamese Government's invitation to visit Viet Nam.

32. Mr. GRAVES (African Commission of Health and Human Rights Promoters) said that in Iraq, the Shiite community continued to be subjected to fierce repression despite the recommendations made by the Security Council in resolution 688 (1991) and in the reports of the Commission on Human Rights Special Rapporteur on Religious Intolerance. In June 1997, the Republican Guard had opened fire on pilgrims travelling to Kerbala, killing over 200 and injuring hundreds. More than 10,000 people, including women and children, had been arrested. He therefore requested the Sub-Commission to draw the Commission's attention to violations of religious freedom in Iraq.

33. Mr. PAPPALARDO (France Libertés: Fondation Danielle Mitterrand) said that, in its resolution 1996/7 on Iran, the Sub-Commission had expressed grave concern at the increase in the wave of political executions and murders of members of the opposition abroad. Recently, a Berlin court had officially condemned the role of the Iranian Government in the murder of its opponents abroad. In Iraq, two Iranian Kurdish opposition members, Ghaleb Alizadeh and Amdjad Molai, had been murdered in cold blood 10 days previously.

34. With regard to the Near East, he urged the Israeli Government to end the blockade of the autonomous Territories and its policy of colonization, which posed a serious threat to the peace agreements between Israel and Palestine.

35. Ms. SEIGEL (International Council of Jewish Women), speaking on behalf of the following NGOs: the Association for World Education, the Baha'i International Community, the Centre Europe-Tiers Monde (CETIM), the Consultative Council of Jewish Organizations, the General Conference of Seventh-day Adventists, Habitat International Coalition, the Inter-African Committee on Traditional Practices affecting the Health of Women and Children, the International Abolitionist Federation, the International Alliance of Women, the International Commission of Jurists, the International Council of Women, the International League for the Rights and Liberation of Peoples, the International Movement ATD/Fourth World, Socialist International Women, Women's International League for Peace and Freedom, World Federation of Methodist and Uniting Church Women, World Muslim Congress and Zonta International, said they all requested that, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, that essential instrument should be broadly disseminated and explained, particularly in schools, and that the entertainment industry in all areas of the world should be associated with that task. Such programmes, if carried through with determination, would be the basis for conflict resolution and peacemaking.

36. Ms. SEIGEL (World Jewish Congress), speaking also on behalf of the International Association of Jewish Lawyers and Jurists, said that there was no justification for terrorism, particularly when it targeted innocent persons as in the case of suicidal attacks by religious extremists. In that regard, it was important to condemn States which denied the terrorist nature of such acts on the pretext that they were part of a struggle against colonialism or alleged occupation of territory.

37. Democratic States should adopt effective measures to combat terrorism at the national and international levels and establish a workable definition of terrorism.

38. Mr. MARCELLI (International Educational Development) said his organization's position on the effects of weapons in the light of human rights was summarized in paragraphs 17-41 of the report of the Secretary-General on international peace and security as an essential condition for the enjoyment of human rights, above all the right to life (E/CN.4/Sub.2/1997/27) and the written statement distributed as document E/CN.4/Sub.2/1997/NGO/19.

39. International Educational Development strongly recommended that the Sub-Commission should continue its consideration of that issue, emphasizing the following points: State secrecy and the public's right to be informed of dangers which threatened it; the duty to disclose the use of weapons as established by opinions handed down by the International Court of Justice; inter-generational rights; the doctrine of jus cogens and the principle of erga omnes and their relationship to weapons of mass destruction; the role of weapons of mass destruction in genocide and ecocide; transboundary violations; the arms traffic; and the right of victims, including those of the Second World War, to compensation.

40. In conclusion, he urged the Sub-Commission to consider the consequences of the use of various weapons, particularly those containing depleted uranium, for people and the environment.

41. Ms. ALA'I (Baha'i International Community) said that no region of the world was free of religious intolerance. In Northern Ireland, violence between Catholics and Protestants had raged for centuries. In Saudi Arabia and Iraq, Shiite Muslims were discriminated against. In Indonesia, many religious groups, including the Baha'is, were similarly persecuted. Persecution became systematic when it was State-supported, a cruel lesson learned by Baha'is in Iran.

42. Mr. Amor, Commission on Human Rights Special Rapporteur on religious intolerance, had emphasized in his report to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/91 and Add.1) that each religion had a tendency to consider that it was the sole guardian of the truth. The Baha'i International Community believed that the foundations of all divine religions were peace and agreement and that misunderstandings and ignorance were generally the cause of religious intolerance. She therefore emphasized the role of education in the transformation of mentalities and the prevention of religious intolerance.

43. Mr. MEHEDI congratulated Mrs. Koufa on her excellent working paper on terrorism and human rights (E/CN.4/Sub.2/1997/28), in which she rightly emphasized that the purpose of terrorist violence was to threaten human rights and take innocent lives. Such acts should be forbidden under any circumstances and those responsible brought to justice. For that purpose, a central mechanism for the punishment of terrorism should be established. Terrorist practices should also be studied in the light of the Protocol Additional to the Geneva Convention and relating to the Protection of Victims of Non-International Armed Conflicts.

44. It was also important to make the public more aware of international human rights instruments and to stress the usefulness of dialogue; in Algeria, for example, members of the regular army and repentant terrorists had succeeded in establishing such a dialogue.

45. In conclusion, he said he hoped that, in her report, Mrs. Koufa would emphasize the damage done to society by terrorism.

46. Mr. VO VAN AI (International Federation of Human Rights (FIDH)), speaking also on behalf of the World Organization against Torture, said that religious persecution in Viet Nam was so great that a priest of the united Buddhist Church of Viet Nam had called it cultural genocide. For example, Decree No. 31/CP allowed the authorities to place anyone who had "threatened State security" in administrative detention without trial. Under that false pretext, the authorities had placed in administrative detention or under house arrest many religious figures, including Tich Tri Tuu, Tich Hai Tang, Tich Hai Chinh, Tich Hai Chan, Thich Hanh Duc and Thich Huyen Quang.

47. Both FIDH and the World Organization against Torture deplored the practice of administrative detention, which was contrary to the International Covenant on Civil and Political Rights, and urged the Vietnamese authorities immediately to repeal Decree No. 31/CP and other legislation which made the expression and exercise of religious beliefs a criminal offence and to release all citizens imprisoned for having peacefully expressed their opinions or religious beliefs.

48. Ms. VIGNARD (International Association of Democratic Jurists) said a number of factors must be taken into consideration if a peaceful and lasting solution to the conflict in Nagorno-Karabakh was to be found. For example, for Nagorno-Karabakh to remain within the borders of Azerbaijan, to which it had been arbitrarily annexed in 1921, would be to confuse the status quo with stability and might lead to new conflicts. Nagorno-Karabakh had separated from Azerbaijan legally under the Soviet legislation in force at that time. International petroleum interests hoped that the establishment of peace in the region would allow them to negotiate contracts concerning deposits in the Caspian Sea with Azerbaijan. However, as several riparian States contested Azerbaijan's right to those deposits, peace could not be established in the region until the question of the ownership of the deposits had been settled; nor could there be any peace or security without recognition of the right to self-determination.

49. She urged the Sub-Commission to take steps to strengthen humanitarian action on behalf of the peoples of the region and to appeal to the two parties in question, Azerbaijan and Nagorno-Karabakh, to begin direct negotiations.

50. Ms. RUPPRECHT (International Institute of Peace) said that in Pakistan, fundamentalist groups such as Harkat ul Hansar, Lashkar e Taiba and Jamiat ul Mujahideen were training troops under the protection of the intelligence services and sending them to various parts of the world, including Bosnia, Kashmir, Myanmar and Tajikistan. As an American expert on terrorism, Mr. Bodansky, had written, the support of secessionist terrorism had become an integral part of Pakistan's diplomacy.

51. The International Institute of Peace urged the Sub-Commission to request Pakistan to halt such activities and to ask donor countries to make their assistance to Pakistan conditional upon improvement of the human rights situation in that country.

52. Ms. CHOKEY (Worldview International Foundation) condemned the policy of the Chinese authorities, who were doing their best to transform Tibet into an atheist region by destroying historic buildings, prohibiting the restoration of monasteries, trampling religious freedom, making personal attacks on His Holiness the Dalai Lama and arresting major religious leaders, including the young Panchen Lama. The purpose of that policy was to destroy Tibetan Buddhism and the cultural and national identity of the Tibetan people, even though compassion, tolerance and forgiveness were among that religion's core beliefs.

53. Mr. SRIVASTAVA (International Institute for Non-aligned Studies) said that multi-ethnic and multireligious societies had become the target of groups seeking to impose their ideology, often by force of arms, thereby threatening to destroy the heterogeneity of those societies by the imposition of systems of arbitrary discrimination.

54. Terrorism had formerly existed only in developing countries and had been interpreted as a sign of those countries' failure to fulfil the aspirations of their people. Terrorists now struck at the heart of affluent countries, and it was perhaps for that reason that the international community was considering the issue. While the bombings in Oklahoma and the Jerusalem market had made the headlines and been unanimously condemned, the more violent bombings in Bombay, a few years earlier, and in Punjab, quite recently, had evoked virtually no reaction from the international community. Yet the life of a citizen, whether from a rich or a poor country, had the same value, and the citizens of both had the same human rights which deserved protection.

55. It was obvious that the armed terrorist groups responsible for those attacks, which always targeted the innocent, could not function without arms, money, training facilities and protection at a high level, and it required no imagination to suppose that they often acted with the blessing of certain countries. Clearly, therefore, it was not enough to condemn terrorism; it was imperative to identify the countries which harboured terrorists and to condemn their action.

56. Ms. JANZ (World Christian Life Community), speaking also on behalf of Caritas Internationalis, Habitat International Coalition, Lutheran World Federation and Oxfam United Kingdom and Ireland, said that the right to a nationality was embodied in article 15 of the Universal Declaration of Human Rights, article 5 (d) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 24 (3) of the International Covenant on Civil and Political Rights and articles 7 and 8 of the Convention on the Rights of the Child. The Commission on Human Rights had reaffirmed the importance of that right in its resolution 1997/36 and had expressed deep concern at the arbitrary deprivation of persons or groups of persons of their nationality.

57. The denial of that right had forced over 100,000 Bhutanese to flee to India and Nepal. Those refugees, most of whom were of Nepalese origin, had been granted Bhutanese citizenship in 1958. A new Citizenship Act, adopted in 1985, had changed their status, and several thousand of them had been reclassified as illegal immigrants and had had to leave the country. Demonstrations organized in 1990 had been crushed by the Bhutanese Government. The refugees wished to return to Bhutan, but the Bhutanese Government was opposing their return on the grounds that they were not Bhutanese citizens, and since bilateral negotiations were making no progress, there was a danger that they might become stateless. The World Christian Life Community therefore urged the Sub-Commission to reaffirm the fundamental and inalienable right of every person to a nationality, to condemn arbitrary deprivation of nationality and to call on the Government of Bhutan to amend its 1985 Citizenship Act.

58. Ms. BATHA (Christian Solidarity International) said it was unfortunate that the question of religious freedom was often neglected in the discussions and actions of the international community, a fact which threatened to have a detrimental effect on the enjoyment of human rights and on world peace. Although it was estimated that over 75 per cent of the world's population claimed adherence to a religion, over one third of that population did not enjoy full religious freedom. Christian Solidarity International supported not only the rights of Christians, but also those of Muslims, Jews, Hindus, Buddhists and people of all other faiths, and encouraged the Sub-Commission to use all the means at its disposal to strengthen existing international instruments and monitoring mechanisms as safeguards against religious intolerance and discrimination.

59. It was unfortunate that religious intolerance had been manifest during the proceedings of the Sub-Commission, as shown by the statement of the representative of the Government of Sudan under agenda item 6. She emphasized that her organization had never defamed Islam and that its French-Swiss office in Geneva had never made the statement attributed to it by the representative of the Sudanese Government.

60. Ms. SPALDING (World Federation for Mental Health) said that the key words which should inspire preparations for the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights were contained in the preamble and article 1 of that Declaration: inherent dignity, freedom from fear and want, promotion of universal respect for and observance of human rights and fundamental freedoms, reason and conscience. Everyone who was committed to the ethical principles embodied in that document should translate those words into action in everyday life. Furthermore, the fiftieth anniversary of the Universal Declaration of Human Rights coincided with the fiftieth anniversary of the World Health Organization (WHO) and the World Federation for Mental Health; that was not a coincidence since implementation of the rights set forth in the Universal Declaration and mental and overall health were complementary.

61. In conclusion, she expressed the hope that the new High Commissioner for Human Rights, together with Governments and governmental and non-governmental organizations, would help to ensure that aspirations became reality.

62. Mr. Bengoa resumed the Chair.

63. Ms. AULA (Franciscans International) said that in the context of the Ottawa Process (October 1996) 50 States had pledged to work together, regionally and globally, for a total ban on anti-personnel mines and a significant increase in the resources available for mine clearance and assistance to victims. It was time to move from negotiations to the adoption of a treaty which would prohibit immediately the use, production, stockpiling and transfer of anti-personnel landmines and provide a timetable for the destruction of existing stocks. Landmines had adverse consequences for people, especially the millions of refugees and internally displaced persons who wanted to return home, and for the land, since access to essential resources was considerably restricted in the countries concerned. Therefore, on the basis of Sub-Commission resolutions 1995/24 and 1996/15, she urged the Sub-Commission to affirm its support for a total ban on the production, marketing, transfer and use of landmines through the adoption of a resolution on the subject.

64. Ms. TALBOT (Afro-Asian Peoples' Solidarity Organization) said that the words peace and security implied not merely the absence of conflict, but also economic independence and development, resource allocation, freedom of choice and opportunity, a secure habitat, enlightened education, equality and justice. The right of people to determine their own political structures and to freely pursue their economic, social and cultural development should not be a matter for debate. Yet there was a growing tendency for some nations to claim the right to tell other countries what political and economic systems they should adopt. That advice, however well intentioned, could be irritating to the countries to which it was addressed and could ultimately prove an obstacle to peace and security.

65. The weakening of the nation-State concept had led many groups in democratic and pluralistic societies to seek to carve out separate homelands, based on ethnic or religious considerations, with little thought to the viability of such entities. If such tendencies were encouraged - as many countries were doing - they would inevitably spark off conflicts which threatened the development prospects of those States. Therefore, if peace and international security were to be guaranteed, it was essential to strengthen the nation-State and to recognize the pride of individuals in their own culture.

66. Mr. VERFAILLIE (International Association for Religious Freedom) drew attention to two developments reflecting a recent trend concerning the exercise of freedom of religion in several countries. The first was the adoption by the Duma (legislative chamber of the Russian Parliament), on 18 June 1997, of a bill on freedom of conscience and religious association, the purpose of which was reportedly to protect the traditional religions of Russia and considerably restrict the activities of other minority religious groups. If adopted, the bill would replace the liberal act of 1990 and make a distinction between "religious organizations", enjoying legal rights, and "religious groups". The status of religious organization would thus be granted to Orthodox Christianity, Islam, Buddhism and Judaism, but many

religions, such as the independent Baptists and the Roman Catholic Church, though long established in Russia, would be left without protection. It was noteworthy that the bill had been vetoed by the President of Russia.

67. The second development concerned a decree, handed down in Austria on 28 April 1997 by the Federal Administrative Court, which stipulated that requests for legal recognition by religious communities should be subject to certain conditions. A new bill, intended to replace legislation which had been in force since 1874, had been submitted. Two conditions which, under that Bill, would have to be met by any such request for recognition were the requirement that the religious community must have existed as a legal person for at least 15 years and that it must have a membership of 2 per mil of the Austrian population on the basis of the last census; those conditions were contrary to the principles of religious freedom and equality for all.

68. Mr. VITTORI (Pax Christi International) said that the seminar on immigration, racism and racial discrimination, held in May 1997 at Geneva, had focused on the flagrant contradiction between the free flow of merchandise and goods and the growing tendency to restrict the movement of individuals. It was unacceptable that persons should be considered as mere economic objects, and for that reason he welcomed the action taken by the International Labour Organization (ILO) to protect migrant workers, which was based on the principle of non-discrimination but remained vague with regard to the rights of frontier workers. The report of the Director-General of ILO on the situation of Arab workers in the territories occupied by Israel highlighted those failings. Furthermore, internal migration was not taken into consideration although it was a source of enormous human problems and often took the form of forced exodus. It was also unfortunate that the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, adopted by the United Nations General Assembly in 1990, had not yet entered into force.

69. With regard to gender equality, he criticized the intolerable discrimination against Afghan women by the fundamentalist Taleban, who denied them the right to education and to work and forced them to dress in a way which totally effaced their personality, on pain of humiliating corporal punishment. It might well be asked who was helping the Taleban directly and indirectly in gaining the upper hand in Afghanistan, and the obvious answer was that the fate of the Afghans depended to a large extent on the economic and geostratigic interests of a major democratic power.

70. Child exploitation took various forms, among which labour was not the most outrageous. Recent scandals had aroused public indignation in Europe and all countries should mobilize to curb what must be considered a crime against humanity.

71. Lastly, he emphasized two essential points which had emerged from the working paper on the promotion and protection of human rights by the exercise of democracy and the establishment of the democratic society (E/CN.4/Sub.2/1997/30) prepared by Mr. El-Hajjé, namely the impossibility of promoting a democratic society without dialogue with citizens and associations

and the need to establish not only laws and regulations, but also ethical and moral principles, as a framework for the behaviour of individuals in their dealings with others in society.

72. Mr. SAHNI (International Progress Organization) said that traditional forms of human rights abuses by States paled to insignificance beside the depredations committed by terrorists in different parts of the world. Nation States had developed arsenals of mass destruction in order to protect their citizens, and it was those arsenals that terrorists, inspired by religious and extremists ideologies, tapped in order to commit their atrocities. The use of weapons was no longer linked to the defence of idealist causes, and it was perhaps because of the romantic associations attached to the actions of anyone who opposed the State that many democratic countries permitted terrorist groups to function in their territory and to advocate their cause while their compatriots committed mayhem in their home countries. How else could the foreign-based offices of organizations such as the Babbar Khalsa International, the Jammu and Kashmir Liberation Front and Harkat Ul Ansar be justified?

73. With the development of conventional and nuclear deterrence, States could no longer fulfil their territorial ambitions through conventional warfare and therefore used terrorist groups to achieve their goals. It was therefore essential for States which harboured terrorist groups and tolerated their activities to be ostracized by the international community since the lives of many innocent people were at stake.

74. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that, since the fall of the Soviet regime, conflicts had broken out in several peripheral regions, such as the Caucasus. At the same time, the region had been the scene of large-scale manoeuvring associated with oil, whose extraction and transport to western markets had attracted the interest of major multinational petroleum companies. There was no need to dwell on the consequences of globalized diplomacy, which supported the petroleum interests and ignored the fragile local balance imposed by geography and the coexistence of numerous ethnic groups.

75. One particularly sensitive region was Nagorno-Karabakh, where, after 70 years of Azerbaijani trusteeship under the Soviet regime, Armenians were being subjected to ethnic cleansing in response to their request for a change in status. The war which had been unleashed against Nagorno-Karabakh by the Azerbaijani army and resulted in some 40,000 dead and about a million refugees on both sides had been followed by a cease-fire in 1994; however, subsequent discussions under the auspices of the Organization for Security and Cooperation in Europe (OSCE) had not resulted in peace. In that connection, she condemned the counter-productive influence of petroleum interests on the peace process. There could be no security and peace in the region without dialogue between the parties concerned, namely, the representatives of the people of Azerbaijan and Nagorno-Karabakh, and she therefore urged the Sub-Commission to ask the elected officials of the two parties to embark upon direct negotiations on the status of Nagorno-Karabakh.

76. Ms. SALAINE (Fraternité Notre Dame, Inc.) said, in her organization's view, religious minorities were entitled to the same existence and respect as

major, widely recognized religious groups. Churches in various countries lobbied Governments in order to protect their own privileges and to muzzle minorities. Discriminatory attitudes were common and in some African countries, for example, the appointment of bishops or priests from the country of origin was not encouraged. That attitude perpetuated a form of moral trusteeship instead of developing the country's cultural identity. Other countries, on the other hand, such as the United States, were more open-minded. It was clear that acceptance of a religious community should not depend on its size.

77. Ms. VIRGINIE (Fraternité Notre Dame, Inc.), continuing the statement, said that women had no recognized place in some churches. Even if women in holy orders did not substitute for male clergy, they should have as many responsibilities as men in various fields, and it was unfortunate that many of the responsibilities of nuns had been transferred to lay persons who sometimes lacked the necessary qualifications or time owing to family or professional obligations. Like any other profession, the religious vocation was a freely undertaken commitment and a life choice which should be better known and therefore better respected. The Fraternité Notre Dame knew by experience that the active, unpaid work of those in holy orders provided an impetus for development in the humanitarian, health and social fields, promoted human dignity and contributed to a stable society.

78. Mr. BHAN (Himalayan Research and Cultural Foundation) said that intolerance and discrimination based on religion, race or belief posed a grave threat to the progress of mankind and the future of children in many countries. Such discrimination, which led to human rights violations, was often sanctioned by law and by political and social attitudes. In 1947, for example, the Constituent Assembly of Pakistan had approved a resolution which guaranteed minorities the right to profess and practise their religion and to develop their cultural identities, but in 1972 the Pakistani Government had nationalized the private schools run by Christians and, under the 1974 constitutional amendment, the Amediyas, a religious sect founded in 1889, had been declared non-Muslims.

79. The contrast between India and Pakistan, which had become independent at the same time, could not be more marked. In India, the Muslim minority enjoyed legal equality and the protection of the law and had the same social, economic and political rights as other communities. In Pakistan, however, minorities were oppressed and considered second-class citizens under the Constitution and the law. Pakistan did not respect its obligations under the international Conventions to which it was a party, and the Government's security forces persecuted minorities and ethnic communities. Lastly, he denounced the murder of several thousand members of the Hindu minority in Jammu and Kashmir by Kashmiri militants trained in Pakistan and foreign mercenaries and the desecration of several Hindu religious sites in order to force the Hindu minority to leave Kashmir.

80. Mr. PEREZ (American Association of Jurists) said that the working paper on recognition of gross and massive violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime (E/CN.4/Sub.2/1997/29), prepared by Mr. Chernichenko, addressed an issue to which his group attached great importance. Although international crimes

committed by States were somewhat specific and required special treatment, there was no reason to state as a general rule - as Mr. Chernichenko had done in paragraphs 15 and 18 of his working paper - that an international crime could be committed only by a State. The concept of offences in general, and crimes in particular, was based on acts which constituted an attack on particularly important property in law such as life, physical safety and freedom, which meant that it was not the identity of the guilty party, but the importance of the property injured which determined the nature of the offence. It was unquestionable that States could commit international crimes, but other entities, whether individuals or institutions, could also be responsible for crimes of that nature. To state that an international crime could be committed only by a State was to create doubt as to the possibility of defining as international crimes serious human rights violations which were generally committed by individuals or entities other than the State and might pave the way to impunity for such crimes.

The meeting rose at 6.05 p.m.